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CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

IN THE UNITED STATE DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

2015 OCT 14 PM 2:22

DEPUTY CLERK RL

SHERRARD DEWAYNE TAYLOR,

Plaintiff,

v.

**THE CITY OF DALLAS,
JESSE ROBERT AQUINO,
RICARDO SALAS, and JUSTIN
THOMAS,**

Defendants.

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8-15 CV 3321 - M
CIVIL ACTION NO. _____

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, SHERRARD DEWAYNE TAYLOR, Plaintiff, complaining of The City of Dallas, Jesse Robert Aquino, Ricardo Salas and Justin Thomas, and for cause of action will respectfully show unto the Court as follows:

I. PARTIES

1. Plaintiff is a resident of Dallas County, Texas.
2. Defendant The City of Dallas is a municipality and service can be effected by serving its City Attorney, Warren M.S. Ernst, 1500 Marillo St., Room 7N, Dallas, Texas 75201.
3. Defendant Jesse Robert Aquino is an individual residing in Dallas County, Texas, and service can be effected at his place of employment, Dallas Police Department, 1400 S. Lamar Street, Dallas, Texas 75215.
4. Defendant Ricardo Salas is an individual residing in Dallas County, Texas, and service can be effected at his place of employment, Dallas Police Department, 1400 S. Lamar Street,

Dallas, Texas 75215.

5. Defendant Justin Thomas is an individual residing in Dallas County, Texas, and service can be effected at his place of employment, Dallas Police Department, 1400 S. Lamar St., Dallas, Texas 75215.

II. JURISDICTION AND VENUE

6. The Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331 and § 1343 since Plaintiff is suing for relief under 42 U.S.C. § 1983. Any state law claims are brought pursuant to 28 U.S.C. § 1367 and are subject to this Court's supplemental jurisdiction. Venue is proper in the Northern District of Texas pursuant to 28 U.S.C. § 1391 because Defendants Jesse Robert Aquino, Ricardo Salas and Justin Thomas are domiciled and/or reside in the Northern District of Texas. This Court has jurisdiction over Defendant City of Dallas because it is an incorporated municipality of the State of Texas, situated in the Northern District of Texas. Additionally, the City of Dallas was acting under color of State law by and through its agents and/or employees, who were acting within the course and scope of their agency and/or employment.

7. Venue is proper because all or a substantial part of the cause of action accrued in the Northern District.

III. FACTS AND ALLEGATIONS

8. This case arises out of the illegal search and seizure, false arrest, incarceration, subsequent charge by information and malicious prosecution of Sherrard Dewayne Taylor (hereinafter "Mr. Taylor"). Plaintiff would show that on or about October 16, 2013, Mr. Taylor was stopped by City of Dallas Police Officers Jesse Aquino, Badge No. 10034, and Officer Ricardo Salas, Badge No. 10052, for allegedly running a stop sign at the intersection of Sunnyvale and

Cummings. Knowing that he had legal, registered firearms in his possession, Plaintiff presented his Concealed Handgun License to the Officers simultaneously with his driver's license. Without taking that into account, the Officers verbally abused Plaintiff by screaming profanities and exclaiming threats. Officer Aquino then drew his firearm on Mr. Taylor and thereby caused other Officers who arrived at the scene to draw their firearms. Consent to search was denied by Mr. Taylor; however, the Officers went on to damage Plaintiff's vehicle during an illegal search. The Officers then seized his firearms, handcuffed and arrested him.

9. As a result, Plaintiff was charged with unlawfully carrying a concealed weapon for "having a gun in plain view."

10. Plaintiff asserts that the firearms were not in plain view, as one firearm was in the door console, which was completely closed, and the other was in the closed center console.

11. During the stop, Officers Aquino, Salas, Thomas and several other police officers drew firearms on Plaintiff, which was initiated by Officer Aquino yelling "Gun!". Plaintiff did not have a firearm drawn but had only advised the police officers that he had his registered, legal firearms in his vehicle, which were at all times concealed. The fact that firearms were drawn on Plaintiff as a response to Officer Aquino's statement, is excessive use of a tangible item belonging to Defendant City of Dallas, which were the officers' guns. Neither firearm owned by Plaintiff was in plain view as stated by Officer Aquino.

12. During the illegal search of Plaintiff's vehicle, Officer Justin Thomas removed a firearm from the center console of Plaintiff's vehicle, and Officer Salas removed a firearm from the door console. Officers Jesse Aquino, Ricardo Salas and Justin Thomas' subsequent reports had inconsistent, conflicting, and/or misleading statements.

13. Plaintiff filed a complaint with the Internal Affairs Division of the Dallas Police Department, which began a full investigation into the arrest and incarceration of Plaintiff.

14. At the conclusion of the Dallas Police Internal Affairs investigation, Officers Jesse Aquino and Ricardo Salas were sustained on the following violations of law and Dallas Police Department Code of Conduct VI, VIII and General Orders:

- A. false arrest;
- B. inaccurate, false, or improper information on a police report;
- C. failing to follow established procedures by not wearing a wireless microphone while operating a DVR equipped vehicle; and
- D. not complying with the established speed limit while driving Code 1.

15. Officer Justin Thomas was found in violation of Dallas Police Department Code of Conduct VIII by giving written, inconsistent, conflicting, and/or misleading statements during an internal investigation.

16. After being falsely arrested, and formally charged with carrying a concealed weapon, Plaintiff had to bond out of jail, retain an attorney to represent him, and make court appearances for approximately one (1) year.

17. The charge was eventually dismissed by Dallas County District Attorney's Office, stating that "Officers Jesse Aquino...and Ricardo Salas...of the Dallas Police Department each had allegations of false arrest sustained against them by the Dallas Police Department Administrative Investigation Unit...for their actions taken in this case. Consequently, this case should be dismissed in the interest of justice."

IV. CAUSES OF ACTION

42 U.S.C. § 1983

18. Plaintiff re-alleges and restates all of Paragraphs 8 through 17 of this Complaint and incorporates each of said paragraphs herein by reference.

19. Defendants had actual notice of the injuries suffered by Plaintiff. Any conditions precedent have occurred, been performed, or have been waived.

20. Acting under the color of law, the Defendants have deprived Plaintiff of the rights and privileges secured to Plaintiff by the Fourth, Fifth and Fourteenth Amendments to the United States Constitution and by other laws of the United States. They falsely arrested Plaintiff for violation of law, falsely incarcerated Plaintiff, harassed, abused, maliciously prosecuted Plaintiff, and otherwise violated basic civil rights afforded all citizens of the United States.

21. By their actions and/or inactions as described above, Defendants have violated 42 U.S.C. § 1983 and the constitutional provisions cited therein. Specifically, Defendants Aquino and Salas arrested Plaintiff without probable cause to arrest Plaintiff for unlawfully carrying a concealed weapon, after Plaintiff had presented Defendants with his Concealed Handgun License. As a proximate result of the arrest and detainment of Plaintiff and of the falsified and misleading statements of Defendants Jesse Aquino, Ricardo Salas, Justin Thomas, Plaintiff was formally charged with unlawfully carrying a concealed weapon.

22. As a direct and proximate result of the above-described actions of the individual Defendants, Plaintiff was deprived of his rights against unreasonable search and seizure, equal protection and due process, as guaranteed by the Fourth, Fifth, and Fourteenth Amendments of the Constitution of the United States. This is a clear violation of 42 U.S.C. § 1983. Specifically,

Plaintiff, by virtue of the wrongful arrest and wrongful incarceration, has suffered unreasonable seizure of his person in the form of confinement in the Dallas County Jail. The charges against Plaintiff were procured by fraud, perjury and other corrupt means – specifically, the falsified police reports.

23. As a direct and proximate result of the occurrences made the basis of this lawsuit, Plaintiff was forced to suffer incarceration in the Dallas County Jail. His wrongful arrest and subsequent and unnecessary deprivation of freedom caused him to suffer severe mental anguish. Plaintiff has suffered serious and substantial injuries for which he requests the award of the following categories of damages:

- a. Emotional distress and mental anguish;
- b. Damage to property;
- c. Damage to reputation.

24. Pursuant to 42 U.S.C. § 1983 and 1988, Plaintiff seeks to recover, and hereby requests the award of exemplary damages, reasonable attorney's fees and costs of court.

False Arrest and False Imprisonment

25. Plaintiff re-alleges and restates all of Paragraphs 8 through 17 of this Complaint and incorporates each of said paragraphs herein by reference.

26. By and through Defendants' falsified police reports, Defendants willfully detained Plaintiff, without his consent; and, without legal authority or justification. Specifically, Plaintiffs' confinement in the Dallas County Jail was a false imprisonment perpetrated by the Defendants' false charge of unlawfully carrying a weapon.

27. In his action for false imprisonment, Plaintiff requests actual damages for humiliation,

shame, fright, mental anguish and loss of earning capacity. Additionally, Plaintiff seeks exemplary damages based on Defendants' wilful and malicious actions.

28. Plaintiff requests pre-judgment and post-judgment interests and court costs.

Fraud

29. Plaintiff re-alleges and restates all of Paragraphs 8 through 17 of this Complaint and incorporates each of said paragraphs herein by reference.

30. Officers Aquino, Salas, and Thomas produced police reports in this case that contained gross misrepresentations regarding the facts that led to Mr. Taylor being arrested for Unlawful Carrying a Weapon. These officers later admitted the representations were false and attempted to correct them, or denied knowledge of very apparent facts. The aforementioned misrepresentations induced the government, namely the Dallas County District Attorney's Office to act. Said actions included filing charges against Mr. Taylor for Unlawful Carrying a Weapon. This false underlying criminal charge led to pecuniary loss and hardship for Mr. Taylor, including, but not limited to, attorney's fees and lost wages.

Malicious Prosecution

31. Plaintiff re-alleges and restates all of Paragraphs 8 through 17 of this Complaint and incorporates each of said paragraphs herein by reference.

32. The individual Defendants maliciously prosecuted Plaintiff under State Law and caused subsequent harm to Plaintiff as described above. A criminal prosecution was commenced against Plaintiff. The Defendants, by and through their false police reports, initiated or procured the criminal prosecution. The criminal prosecution was subsequently terminated in Plaintiff's favor, i.e., the case against Plaintiff was dismissed. The Plaintiff was innocent of the charges and there was an

absence of probable cause for the proceedings. The Defendants acted with malice and Plaintiff was damaged by detainment in the Dallas County Jail.

V. JURY REQUEST

33. Plaintiff respectfully requests a jury trial.

VI. PRAYER

34. **WHEREFORE, PREMISES CONSIDERED,** Plaintiff prays that judgment be rendered against Defendants. Plaintiff further prays for all other relief, both legal and equitable, to which he may show himself justly entitled.

Respectfully submitted,

THE FARMER LAW GROUP, PLLC

By: 

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ATTORNEYS FOR PLAINTIFF

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Sherrard Taylor

(b) County of Residence of First Listed Plaintiff Dallas
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Anthony Farmer
 The Farmer Law Group, PLLC
 1100 S. 2nd, Suite 350
 Dallas, TX 75208 214-948-8333

DEFENDANTS

City of Dallas
 City of Dallas Police Officer Jesse Robert Aquino
 City of Dallas Police Officer Ricardo Thomas
 City of Dallas Police Officer Justin Thomas
 County of Residence of First Listed Defendant Dallas
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. Section 1983

Brief description of cause:

False Arrest, False Imprisonment, Fraud and malicious Prosecution

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED PENDING OR CLOSED CASE(S)

IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

10-14-15

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE